

REMARKS

Claims 1, 4-11 and 14-32 are pending in this application. By this Amendment, claims 1, 4, 11 and 14 are amended; and claims 3 and 13 are cancelled without prejudice to, or disclaimer of, the subject matter contained therein.

Entry of Amendment After Final Rejection

Entry of the Amendment is requested under 35 U.S.C. §1.116 because the Amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues requiring further search and/or consideration because the features now in independent claims 1 and 11 were previously in a dependent claim; (c) do not present any additional claims without canceling the corresponding number of finally rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary. Entry of the Amendment is thus respectfully requested.

The Section 102 Rejections

Claims 1, 3-11 and 13-32 were rejected under 35 U.S.C. §102(e) as being anticipated by Shimbashi et al., U.S. Patent No. 6,798,779 ("Shimbashi"). Applicants respectfully traverse these rejections for at least the following reasons.

Each of the claims is directed to the examination of a SONET/SDH path overhead byte in order to determine which type of switch fabric (e.g., a circuit

switch or packet switch) to route traffic to. In addition, claims 4, 14, 20 and 27 include the feature that the SONET/SDH path overhead byte may be a C2 byte.

In contrast, Shimbashi does not disclose routing traffic based on an examination of a SONET/SDH path overhead byte, much less a C2 overhead byte.

The Examiner refers to the SOH, LOH and POH signals in Figure 18 of Shimbashi as teaching the overhead byte. However, Applicants submit that SOH, LOH and POH signals are not examined to determine which switch fabric type (e.g., circuit switch fabric and/or packet switch fabric) to route traffic to. Instead, the signals (SOH, LOH, POH) of Shimbashi are used to switch between an operating STS switching module and a spare path STS switching module, rather than between a circuit switch fabric and/or a packet switch fabric.

Because Shimbashi does not disclose each and every feature of the claimed invention, it cannot provide a basis for a rejection under 35 U.S.C. §102. Thus, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 4-11 and 14-32.

CONCLUSION

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant hereby petitions for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

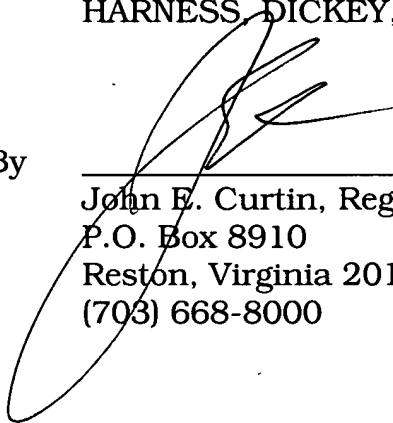
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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